

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT (PCT Article 36 and Rule 70)

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Applicant's or agent's file reference 112068/SW/AW	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. PCT/DK 02/00891	International filing date (day/month/year) 20.12.2002	Priority date (day/month/year) 17.04.2002
International Patent Classification (IPC) or both national classification and IPC B65D85/32		
Applicant BRODRENE HARTMANN AS		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 5 sheets, including this cover sheet.

☒ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

 These annexes consist of a total of 6 sheets.

3. This report contains indications relating to the following items:
 - I ☒ Basis of the opinion
 - II ☐ Priority
 - III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
 - IV ☐ Lack of unity of invention
 - V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - VI ☐ Certain documents cited
 - VII ☐ Certain defects in the international application
 - VIII ☐ Certain observations on the international application

Date of submission of the demand 25.06.2003	Date of completion of this report 30.07.2004
Name and mailing address of the international preliminary examining authority:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Authorized Officer Bridault, A Telephone No. +31 70 340-3224 

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/DK 02/00891

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-11 as originally filed

Claims, Numbers

1-40 received on 04.02.2004 with letter of 02.02.2004

Drawings, Sheets

1/10-10/10 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
☐ the claims, Nos.:
☐ the drawings, sheets:

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. **PCT/DK 02/00891**

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	2-5, 11-16, 19, 22, 26-29, 31, 32, 36
	No: Claims	1, 6-10, 17, 18, 20, 21, 23-25, 30, 33-35, 37-40
Inventive step (IS)	Yes: Claims	19, 22, 27, 28, 29
	No: Claims	1-18, 20, 21, 23-26, 30-40
Industrial applicability (IA)	Yes: Claims	1-40
	No: Claims	

2. Citations and explanations

see separate sheet

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/DK 02/00891

Re Item V

Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Reference is made to the following documents:

D1: US-A-3 813 027
D2: DE 195 30 156 A
D3: LU 79 834 A
D4: FR-A-2 731 986
D5: FR-A-2 133 279
D6: GB 329 846 A

2. D1 discloses (see in particular fig. 7; the reference numbers relating to this document) a display and distribution packaging unit for eggs, said unit being made of moulded pulp and comprising:

- a bottom part comprising non-planar side surfaces (18, 21) of compartments so as to match at least partially the outer contours of the eggs contained within said unit;
- a cover part comprising a top surface (25) and substantially planar front (26) and rear surfaces;

where said cover part comprises portions (28) reflecting the shape of the eggs contained within said unit,

where said egg-shaped portions of the cover part continue in said corresponding egg-shaped portions of the bottom part, the corresponding portions in the cover part and in the bottom part thereby forming a continuous portion of the surface of an egg.

It should be noted that, looking at the figures of the present application, for instance figure 3a, there is shown a rim (in the continuation of the hinge (12)), which separates the bottom part from the cover. Therefore, the terms "the egg-shaped portions of the cover part continue in [the] corresponding egg-shaped portions of the bottom part" must be so interpreted that the egg-shaped portions have contours shaped and positioned such that prolonging them towards each other will result in a continuous egg shape. This is also the case of the container of D1, as can be seen from figures 6 and 7 of this document.

The unit of D1 having thus all the technical features of the subject-matter of claim 1, the latter is not new.

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/DK 02/00891

3. A unit according to claim 1 is further disclosed in D2 (fig. 1).
4. Dependent claims 6-10, 17, 18, 20, 21, 23-25, 30, 33-35 and 37-40 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty, because the additional features of claims 6-10, 17, 20, 21, 23-25, 33-35 and 37-40 are known in combination from D1, and the additional features of claims 18 and 30 are known in combination from D2.
5. Dependent claims 2-5, 11-16, 26, 31, 32 and 36 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of inventive step, the reasons being as follows:
 - the additional features of claims 2-5 are known from D3 (fig. 2);
 - the additional features of claims 11 to 16 relate to the aesthetics of the package. Making some parts of an object coarse and others smooth in relation with the printing of said parts is generally known, see D4. Now, defining which parts will have the coarse structure, and which ones will have the smooth structure is only a choice dictated by aesthetic considerations;
 - the additional features of claim 26 are known from D5;
 - the additional features of claims 31 and 32 are known from D6, and
 - the additional features of claim 36 are a mere matter of design and are directly dictated by the intended use of the protrusions (being pushable by a finger).
6. The combination of the features of dependent claims 19, 22, 27 and 28 is neither disclosed in, nor suggested by the available prior art. The subject-matter of these claims therefore meets the requirements set forth in article 33(1) PCT. Since claim 29 depends on claim 28, its subject-matter meets said requirements, too.

PCT/DK02/00891
Our ref.: 112068/SW/AW

9

EPO - DG 1

04. 02. 2004

Amended claims

CLAIMS:

(46)

1. A display and distribution packaging unit for eggs or similar fragile articles, said unit being made of an opaque material, e.g. moulded pulp and comprising:
- 5 - a bottom part (2) comprising non-planar side surfaces of compartments (4) so as to match at least partially the outer contours of the eggs contained within said unit;
- a cover part (3) comprising a top surface (10) and substantially planar front- and rear surfaces (14, 15);
- 10 where said cover part (3) comprises portions (8) reflecting the shape of the eggs contained within said unit,
- where said egg-shaped portions of the cover part (3) continue in said corresponding egg-shaped portions of the bottom part (2), the corresponding portions in the cover part (3) and in the bottom part (2) thereby forming a continuous portion of the
- 15 surface of an egg.
2. A display and distribution packaging unit according to claim 1, where said portions (8) reflecting the shape of the eggs are located on substantially planar surfaces of said cover part (3).
- 20 3. A display and distribution packaging unit according to claim 1 or 2, where said portions (8) reflecting the shape of the eggs each comprises substantially a quarter of the total surface area of the corresponding egg.
- 25 4. A display and distribution packaging unit according to claim 1, 2 or 3, where said substantially planar surfaces of the cover part (3) comprising said portions (8) reflecting the shape of the eggs contained in the unit are located at one longitudinal end or both longitudinal ends of the cover part (3).
- 30 5. A display and distribution packaging unit according to claim 1, 2, 3 or 4, where said substantially planar surfaces of the cover part (3) comprising said portions (8) reflecting the shape of the eggs contained in the unit are one or more of the surfaces comprising said top surface (10), front surface (14) and rear surface (15).